

STATE OF IOWA  
DEPARTMENT OF COMMERCE  
UTILITIES BOARD

IN RE:  IES UTILITIES INC.	DOCKET NOS. RFU-98-7 RFU-98-21 RFU-99-3 (WRU-98-10-151)
----------------------------------	--

**ORDER APPROVING AD VALOREM TAX REFUND PLAN**

(Issued September 18, 2000)

On March 2, 1998, IES Utilities Inc. (IES) filed a request for a waiver of 199 IAC 19.10(8). The filing was identified as Docket No. WRU-98-10-151. Subrule 19.10(8) requires that a utility shall refund to customers an amount equal to any refund received from a supplier, plus interest where appropriate. The subrule also requires the utility to file a refund plan within 30 days of receipt of the refund from the supplier.

IES indicated that it had received a refund from Northern Natural Gas Company (Northern) in the amount of \$1,169,023. The refund was for amounts related to the payment of Kansas ad valorem taxes during the period 1983 to 1988. IES indicated that the Federal Energy Regulatory Commission (FERC) order requiring the refunds was not final and there was a possibility that the refunds would have to be returned. IES requested a waiver until the appeals of the FERC order were final. The Utilities Board (Board) issued an order on April 22, 1998, granting the

waiver until the FERC order was final, and directing IES to file a status report concurrent with its annual Purchased Gas Adjustment (PGA) reconciliation filings.

On April 21, 1998, IES filed a request for a waiver of 199 IAC 19.10(8) for a second refund by Northern related to ad valorem taxes. This filing was identified as Docket No. RFU-98-7. The amount of the refund was \$157,802. IES proposed to treat this second refund in the same manner as the first refund approved by the Board on April 22, 1998. On May 21, 1998, the Board issued an order granting the waiver under the same terms as the first waiver.

On September 15, 1998, IES filed a plan related to a third refund of ad valorem taxes. This filing was identified as Docket No. RFU-98-21. The refund amount was \$55,935. IES again requested a waiver of 199 IAC 19.10(8) and proposed to treat this third refund in the same manner as the previous two. On October 29, 1998, the Board issued an order approving the refund plan and granting the waiver.

On May 13, 1999, IES filed with the Board a request that a fourth refund from Northern related to Kansas ad valorem taxes should be treated in the same manner as the previous three refunds. The filing was identified as Docket No. RFU-99-3. The Board approved the treatment of the refund in a letter from the Executive Secretary dated June 9, 1999.

The U.S. Court of Appeals issued an order on October 29, 1999, which affirmed the FERC order that required refunds of amounts paid for Kansas ad

valorem taxes, with interest. On March 3, 2000, the Board issued an order finding that the uncertainty regarding the refund had been reduced and directing IES to file a plan to begin refunding the money from the four ad valorem tax refunds to customers. The Board indicated that the waivers granted previously were terminated.

On March 16, 2000, IES filed an application for rehearing of the March 3, 2000, order and requested that the waivers be continued. IES asserted that there was still significant uncertainty concerning the refunds. On March 27, 2000, the Consumer Advocate Division of the Department of Justice (Consumer Advocate) filed a response recommending that IES be allowed to retain the refunds. The Board, by order issued April 14, 2000, granted rehearing and continued the waivers until November 1, 2000, when the refunds were to be included in the PGA reconciliation.

In the order, the Board stated that allowing IES to retain the refund amounts until the PGA reconciliation was beneficial because (1) the refund amounts could be used to offset any PGA under-collections, (2) the additional time should clarify the total amount of the refunds, and (3) by refunding through the PGA, the expense of bill credits or checks would be eliminated.

On May 4, 2000, Iowa Industrial Intervenors (III) filed a motion to intervene in these proceedings and an application for rehearing and reconsideration. III asserted in its pleading that they were sales customers of IES during the period 1983 to 1988 and they should share in the refunds. III indicated that since they are no longer sales customers they will not share in the refunds if the refunds are returned as part of the

PGA reconciliation process. III requested that the Board reconsider its April 14, 2000, order and permit current transportation customers who were former sales customers to share in the refund. IES filed a reply to III on May 18, 2000, in which IES stated that its refund practice is to only make refunds to sales customers. IES asserted that it would be impractical to match the actual sales data to calculate the refunds for transportation customers. Consumer Advocate filed a response to III's application on May 18, 2000, in which it supported the use of actual sales volumes from 1983 to 1988 for determining transportation customer refund amounts.

On June 2, 2000, the Board issued an order granting III intervention in the various dockets and granted reconsideration of its April 14, 2000, order. The Board then adopted a procedural schedule for these proceedings. In compliance with the procedural schedule, on June 15, 2000, IES filed a response indicating it would include transportation customers in the ad valorem tax refunds. On June 23, 2000, IES filed a report showing its proposed method of allocating a portion of the Kansas ad valorem tax refunds to current transportation customers. IES proposes to calculate refunds based upon the most recent 12-month period volumes. The report shows that based upon 12-month volumes ending April 2000, sales customers would receive 71 percent of the refunds while transportation customers would receive 29 percent.

On July 6, 2000, Consumer Advocate filed a pleading requesting that the Board order IES to adopt the refund plan filed by MidAmerican Energy Company

(MidAmerican) in Docket No. RFU-98-11, et al. Neither IES nor III filed a response to the pleading. The Board has subsequently learned that IES proposes to follow the MidAmerican methodology for making the refunds.

The Board has reviewed the extended history concerning the return of ad valorem tax refunds to Iowa customers. The refunds have been the subjects of much litigation, which has delayed the return of these refunds. Most of the litigation has been concluded and the Board now has a plan before it to return money to customers. Because of the delay, the customers who paid the taxes as part of the cost of gas from 1983 to 1988 may not be the customers who receive the benefit of the refund. The passage of time though has made refunds based upon actual volumes from the refund period impractical. IES has proposed using the most recent 12-month volumes as a substitute for the actual data for the period when the taxes were paid.

The taxes were paid by sales customers on IES's system during a time when large customers were switching from sales to transportation service. Although current transportation customers are not sales customers today, the Board finds that they should share in the refunds. The plan proposed by IES would return the money to current sales customers through the PGA, which will reduce the cost of gas over the reconciliation period after November 1, 2000. The plan would return the money to current transportation customers as bill credits or by check.

The Board finds that the plan agreed to by IES adopting the MidAmerican methodology is reasonable considering the inability or impracticability of recreating the customer volumes for the period when the ad valorem taxes were paid. The use of the most recent 12-month volumes for division of the refunds between current sales customers and transportation customers will allow the refunds to be returned in as equitable a manner as is practical. The Board will therefore approve the refunding of the ad valorem tax refunds based upon the methodology approved in Docket Nos. RFU-98-11, et al., using the most recent 12-month volumes.

**IT IS THEREFORE ORDERED:**

1. IES Utilities Inc. shall make the ad valorem tax refunds as described in this order.
2. IES shall file a final report showing the total amount refunded to both sales and transportation customers within 30 days of the completion of the refund.

**UTILITIES BOARD**

/s/ Allan T. Thoms

/s/ Susan J. Frye

ATTEST:

/s/ Raymond K. Vawter, Jr.      /s/ Diane Munns  
Executive Secretary

Dated at Des Moines, Iowa, this 18<sup>th</sup> day of September, 2000.